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Samson Tug and Barge Company

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

SAMSON TUG AND BARGE CO., INC.,)
an Alaska Corporation,)
)
Plaintiff/Appellant)
)
vs.)
) Case Number: A03-006 CV Admiralty JWS
UNITED STATES OF AMERICA,)
)
acting by and through)
)
the UNITED STATES DEPARTMENT of)
the NAVY MILITARY SEALIFT)
COMMAND, and UNITED STATES)
DEPARTMENT OF THE ARMY)
MILITARY TRAFFIC MANAGEMENT)
COMMAND,)
)
Defendants/Appellees.)
)

**SUPPLEMENTAL NOTICE OF DEPOSITION
OF A PARTY PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 30(b)(6)**

TO: JEANNE M. FRANKEN, ESQ.
U.S. Department of Justice
7-95395 Federal Building
450 Golden Gate Avenue
San Francisco, California 94102-3463

Exhibit "F"
144

PLEASE TAKE NOTICE, that, on **Tuesday, August 15, 2006**, at the hour of 10:00 a.m., and continuing thereafter until complete, at the offices of Garvey Schubert Barer, 18th Floor, Second and Seneca Building, 1191 Second Avenue, in Seattle, Washington 98101, or on such other date(s) and at such other times or places as to which the parties may agree, Plaintiff/Appellee will take the deposition of the Defendant/Respondent, concerning the matters described below, and such other discoverable matters as are within the knowledge of such witnesses. The Defendant/Respondent shall designate one or more of its officers or managing agents to testify concerning such matters of inquiry, and such other discoverable matters as are within the knowledge of such witnesses.

(1) Pertaining to the period between October 1, 1995, through September 30, 1997:

(a) an identification, and description of the nature, procedures for the making, keeping and/or destroying, and the present whereabouts and manner of storage of, all data, electronically or digitally recorded information, documents or records of any nature which were created, delivered, received, stored compiled, or maintained, and which, in the ordinary course, should have been created, delivered, received, stored and/or maintained, by or on behalf of the United States Government, pertaining or relating to the transportation of military or military sponsored cargo transported within the Defense Transportation System to or from NAF Adak and points in the continental United States, either directly or by transshipment, including, without limitation: any and all data, data compilations or summaries, electronically or digitally stored information, communications, correspondence, electronic mail, message traffic, documents or records, including (without limitation) those reflecting, relating or referring to review, consideration, discussion, designation, justification, selection and/or approval by

Government personnel of the particular mode of transportation of any and all such cargo (e.g., air or ocean, and/or via military or civilian-owned or controlled aircraft or vessels); documents and records of the criteria applied and information considered by such personnel in selecting such transportation mode; and TCMD records, cargo manifests, bills of lading, descriptions of cargoes, and weights of cargo, and all communications and memoranda pertaining to such cargo;

(b) the decisions, deliberations, orders, directions, actions, rules, protocols, policies, practices and procedures of the United States Government pertaining or relating to selection of the particular modes of transportation of any and all such cargo (e.g., air or surface, and transport via military vs. civilian assets), including (without limitation) the extent to which the same were or were not consistent with past decisions, actions, practices and procedures during the period between January 1, 1993 and September 30, 1997;

(c) the criteria applied and information considered by such personnel in selecting such transportation modes;

(d) any relationship between the Government's selection of the mode(s) of transportation for such cargo, and the planning and implementation of the closing of NAF Adak; and

(e) the identity and current whereabouts of all Government personnel who were involved or participated in such transportation mode selection decisions and in implementing them, and of all other persons with knowledge of any of the foregoing.

(2) Pertaining to the period from October 1, 1995, through September 30, 1997:

(a) an identification, and description of the nature, procedures for the making, keeping and/or destroying, and the present whereabouts and manner of storage of, all data, electronically or digitally recorded information, documents or records of any nature which were created, delivered, received, stored, compiled and/or maintained, and which, in the ordinary course, should have been created, delivered, received, stored, compiled and/or maintained, by or on behalf of the United States Government, pertaining or relating to the transportation of military or military sponsored cargo by either civilian or military aircraft to or from NAF Adak and points in the continental United States, either directly or by transshipment, including, without limitation, any and all TCMD records, cargo manifests, descriptions of cargoes, and weights of cargo, and data, data compilations electronically or digitally recorded information, correspondence, communications, electronic mail, message traffic, documents or records reflecting review, consideration, discussion, selection, designation, and/or approval by Government personnel of air transportation of any and all such cargo;

(b) the decisions, actions, deliberations, orders, directions, rules, protocols, policies, practices and procedures of the United States Government pertaining or relating to selection of air transportation for any and all such cargo, and the selection of, on the one hand, civilian, or, on the other, military aircraft for such air transportation, including (without limitation) the extent to which the same were or were not consistent with past decisions, actions, practices and procedures during the period between January 1, 1993 and September 30, 1997;

(c) the criteria applied and information considered by such personnel in such selection decisions;

(d) any relationship between the Government's selection of air transportation of, and the assets (e.g., military or civilian) used to transport, such cargo, and the planning and implementation of the closing of NAF Adak; and

(e) the identity and current whereabouts of all Government personnel who were involved or participated in such selection decisions and in implementing them; and all other persons with knowledge of any of the foregoing.

(3) The purpose, content and meaning of each of the following tables, charts, records, memoranda and data compilations and summaries, including, for each such item: (i) the meaning of all abbreviations, codes, and other information or data contained or summarized therein, together with an identification of all sources of data or information, in any and all forms, contained or summarized in the same, or used or relied upon in any way to create or generate it; (ii) the identity and current whereabouts of all persons who participated in and supervised or who have knowledge of the purpose, and the creation or generation of such tables, charts, memoranda, records, and data compilations and summaries; (iii) an identification of all source documents and records in any form (including in any electronic, digital, magnetic storage medium, and "hard copy" form") originally containing, reflecting or recording any information or data reflected therein, and the whereabouts of such source documents and/or records; (iv) any rules, policies, practices and procedures pursuant to which such source documents and records were originally created or generated; and (v) the identity and current whereabouts of persons who participated in and supervised the creation or generation of the original documents, or who have knowledge of the purpose of such source documents, their creation or generation, and the

rules, policies, practices and procedures pursuant to which such source documents and records were originally created or generated.

- (a) the table of aircraft flights produced by the United States of America in discovery in this action, and designated as pages US000000001 through and including US000000024;
- (b) the memoranda and spreadsheets released in response to the Plaintiff's FOIA requests by the U.S. Department of the Air Force, 632d Air Mobility Squadron (AMC) and attached as Exhibit 16 to Plaintiff's Claim For Breach of Contract or in the Alternative Request for Equitable Adjustment for Constructive Partial Termination for Convenience of the Government, denial of which is the subject of this action;
- (c) the table of aircraft flights and air shipment records released in response to the Plaintiff's FOIA requests by an agency or instrumentality of the United States Government and attached as Exhibit 17 (A) through (E) to Plaintiff's Claim For Breach of Contract or in the Alternative Request for Equitable Adjustment for Constructive Partial Termination for Convenience of the Government, denial of which is the subject of this action.

This Notice supplements the Notice of Deposition served on November 18, 2005. You are hereby invited to attend and cross-examine. The oral deposition will be conducted by an officer authorized by law to administer oaths.

DATED, this 5th day of June, 2006.

Respectfully submitted,



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Harold G. Bailey, Jr., *pro hac vice*
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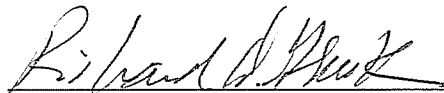
Counsel for Plaintiff
Samson Tug and Barge Co., Inc.

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2006, a copy of the foregoing Supplemental Notice of Deposition was served by first class mail, postage prepaid to the following:

Jeanne M. Franken
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
7-5393 Federal Building
P.O. Box 36028
San Francisco, CA 94102-3463

United States Attorney
Federal Building and U.S. Courthouse
222 West Seventh Avenue, #9, Room 253
Anchorage, Alaska 99513-7567

A handwritten signature in black ink, appearing to read "Richard D. Gluck", is written over a horizontal line.

Richard D. Gluck